

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL BLAKE DEFRENCE,

Defendant.

CR 21-29-M-DLC

ORDER

Before the Court is Defendant Michael Blake DeFrance's Unopposed Motion to Withdraw Request to File Oversized Reply Brief. (Doc. 75.) The motion states that Mr. DeFrance reduced his reply brief to fit within the standard word count, and permission to file an oversized brief is not required. (*Id.* at 1-2.) The motion will be denied as moot because the Court has already reviewed the proposed reply brief (Doc. 73-1) and intended to grant the Unopposed Motion to File Oversized Reply Brief (Doc. 73).

The briefing on Mr. DeFrance's Motion to Dismiss the Second Superseding Indictment raises several issues that the Court concludes would be prudent to address before issuing a ruling on the motion. Both iterations of Mr. DeFrance's reply brief (Docs. 73-1, 74) raise a number of new arguments in support of his motion. In the interest of fairness, the Court will grant the United States leave to

file an optional sur-reply brief, subject to a word limit of 4,452 words, on or before January 18, 2022.

Furthermore, Mr. DeFrance argues in his reply brief that, had the documents at issue (Doc. 63) been disclosed before the close of briefing concerning his affirmative defenses, “those papers would have been woven into” that briefing. (Doc. 73-1 at 5–6; Doc. 74 at 5–6.) Again in the interest of fairness, the Court will permit optional supplemental briefing on the United States’ motion in limine concerning Mr. DeFrance’s defenses (Doc. 36). Mr. DeFrance may submit an optional supplemental brief responding to the motion on or before January 25, 2022, and the United States may submit an optional supplemental reply brief on or before February 1, 2022.

Once the briefing schedule is complete, the Court will hold a hearing on all remaining pending motions in this case.

Accordingly, IT IS ORDERED that the Unopposed Motion to File Oversized Reply Brief (Doc. 73) is GRANTED.

IT IS FURTHER ORDERED that the Unopposed Motion to Withdraw Request to File Oversized Reply Brief (Doc. 75) is DENIED as moot.

IT IS FURTHER ORDERED that the United States may file an optional sur-reply brief in response to Mr. DeFrance’s Reply Brief in Support of Opposed Motion to Dismiss Superseding Indictment (Docs. 73-1, 74), subject to a word

limit of 4,452 words, on or before January 18, 2022.

IT IS FURTHER ORDERED that Mr. DeFrance may file an optional supplemental brief in response to the United States' Motion in Limine to Preclude Defenses (Doc. 36) on or before January 25, 2022, and the United States may file an optional supplemental reply brief on or before February 1, 2022.

IT IS FURTHER ORDERED that the Court shall hold a hearing on all pending motions in this case (Docs. 34, 36, 69) on February 23, 2022 at 1:30 p.m. in the Russell Smith Federal Courthouse in Missoula, Montana.

IT IS FURTHER ORDERED that this Court's order excluding all time from September 15, 2021 to the disposition of all pretrial motions from any Speedy Trial Act calculations in the above-captioned matter pursuant to 18 U.S.C. § 3161(h)(1)(D) (Docs. 64, 71) remains in full force and effect.

DATED this 11th day of January, 2022.



Dana L. Christensen, District Judge
United States District Court